

REMARKS

Status of the Application

Prior to this response, claims 1-11, 15-24, 28, 29 and 33 were pending. Claims 34-43 have previously been withdrawn. Claims 12-14, 25-27 and 30-32 have previously been canceled. No claims have been added. Claim 21 has been amended herein. Therefore, claims 1-11, 15-24, 28, 29 and 33 are present for examination.

The Office Action rejected claims 1-3, 6-8, 15-22, 28-29 and 33 under 35 U.S.C. §103(a) as being obvious over the cited portions of U.S. Patent Publication No. 2003/0113085 to M'Saad ("M'Saad") in view of the cited portions of U.S. Patent Publication No. 2006/0258062 to Yamazaki et al. ("Yamazaki").

The Office Action rejected claims 4-5 and 23-24 under 35 U.S.C. §103(a) as being unpatentable over M'Saad in view of Yamazaki, and further in view of the cited portions of U.S. Patent No. 5,042,895 to Chouinard et al. ("Chouinard").

The Office Action rejected claims 9-10 under 35 U.S.C. §103(a) as being unpatentable over M'Saad in view of Yamazaki, and further in view of the cited portions of U.S. Patent Publication No. 2006/0258062 to Nikoonahad et al. ("Nikoonahad").

The Office Action rejected claim 11 under 35 U.S.C. §103(a) as being unpatentable over M'Saad in view of Yamazaki, and further in view of the cited portions of U.S. Patent Publication No. 2002/0083401 to Breiner et al. ("Breiner").

Remarks

Claim 1

Claim 1 stands rejected as being obvious over M'Saad in view of Yamazaki. Applicant respectfully traverses this rejection at least because M'Saad and Yamazaki do not teach or suggest all of the recitations of claim 1, nor have such recitations been shown to have been otherwise known in the art at the time of the invention. Claim 1 recites "wherein changing the process conditions comprises increasing, discretely, an RF source power" (emphasis added). The Office Action cites ¶20 and ¶21 of Yamazaki as teaching or suggesting these recitations. However, ¶20 and ¶21 of Yamazaki actually disclose a "plasma CVD method [which] increases gradually or continuously an output of an RF power supply..." (emphasis added).

A discrete increase is not the same as a continuous or gradual increase. A "discrete" increase is an increase having a "finite... number of values" (discrete. Merriam-Webster Online Dictionary. Retrieved November 20, 2008, from <http://www.merriam-webster.com/dictionary/discrete>). A continuous or gradual increase, as in Yamazaki, would result in an infinite number of values between the starting and ending point of the time period the RF output increase occurs over. Therefore, because increasing an RF power source level "gradually or continuously" is not the same as increasing it "discretely," and nor are the results from such processes necessarily equivalent, Yamazaki does not teach or suggest these recitations of claim 1.

For at least the above reasons, M'Saad and Yamazaki fail to teach or suggest all of the recitations of claim 1. Because M'Saad, Yamazaki, Breiner, Nikoonahad, and Chouinard do not teach or suggest all of the recitations of claim 1, and because such recitations have not been otherwise shown to have been known in the art at the time of the invention, a *prima facie* case of obviousness is not established with respect to claim 1. Applicant therefore respectfully requests withdrawal of the §103 rejection of this claim for at least this reason.

Claim 21

Claim 21 stands rejected as being obvious over M'Saad in view of Yamazaki. Applicant has amended claim 21 to recite, "changing the process conditions during deposition in accordance with a correlation between the refractive-index value and the process conditions" (emphasis added). M'Saad does not teach or suggest changing the process, while the process is occurring, in response to a measured optical property.

M'Saad instead teaches a post-process analysis where the results of changing flow rates are analyzed for use in future processing. As evidence of this, ¶52 of M'Saad states that "the process sets are predetermined sets of process parameters necessary to carry out specified processes.... [These] process parameters for performing a specific process relate to conditions such as process gas composition and flow rates, temperature, pressure, plasma conditions such as RF power levels" (M'Saad ¶52, ll. 6-17, emphasis added). In other words, M'Saad relies on pre-set RF power levels. Similarly, while Yamazaki discusses changing the output of the RF power supply, it does not occur during deposition, but rather prior to deposition (Yamazaki, ¶23). For at least these reasons, M'Saad and Yamazaki do not teach or suggest the above recitations.

Because M'Saad and Yamazaki fail to teach or suggest all of the recitations of claim 21, and because such recitations have not been otherwise shown to have been known in the art at the time of the invention, a *prima facie* case of obviousness is not established with respect to claim 21. Applicant therefore respectfully requests withdrawal of the §103 rejection of this claim.

Claims 2-11, 15-20, 22-24, 28, 29, and 33

Each of claims 2-11, 15-20, 22-24, 28, 29, and 33 depend, either directly or indirectly, from claims 1 and 21 and are believed to be allowable at least by virtue of their dependence from an allowable base claim. Consequently, Applicant respectfully requests the withdrawal of the §103 rejections of these claims.

Appl. No. 10/817,611
Amdt. dated December 4, 2008
Reply to Office Action of September 4, 2008 (the "Office
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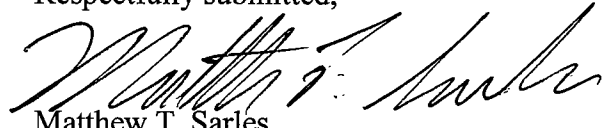
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CONCLUSION

For at least all of the foregoing reasons, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew T. Sarles", is written over the typed name.

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